

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

HONORABLE AVERN COHN

No. 16-20143

**D-2 DEAUTA BELCHER and
D-3 ANDRE WATSON,**

Defendants.

JURY TRIAL EXCERPT - VOLUME 12
Rule 29 Motion
Friday, October 19, 2018

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To obtain a certified transcript, contact:
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Transcript produced using machine shorthand and CAT software.

Jury Trial Excerpt
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Detroit, Michigan

Friday, October 19, 2018

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(Beginning of excerpt.)

THE COURT: Okay. Go ahead.

MR. SHEA: Judge, on behalf of Mr. Belcher, I'm going to argue in reverse order. Count Four is the, the charge under 18 United States Code Section 1512(b)(3), which we discussed --

THE COURT: Let me have the indictment.

MR. SHEA: I would argue, Your Honor, that --

THE COURT: Excuse me one moment. Never mind.

Go ahead.

MR. SHEA: Judge, I'm going to reverse myself. I'm just going to argue from the beginning.

In Count One, Your Honor, with respect to the murder for hire, we argue that the Court should direct a judgment of acquittal because the only direct evidence that Mr. Belcher was involved in a murder for hire plot is through what I would characterize as fatally tainted former codefendants whose unreliability, inconsistent statements and outright lies have been demonstrated in the trial of this case.

With respect to Count Two, I don't have an argument with respect to the drug conspiracy itself. I don't think I can argue that there has not been evidence for the jury to hear on the existence of a drug conspiracy since Mr. Belcher's own

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1 words demonstrate that he was in one.

2 But with respect to Count Three, which is the commission
3 of a murder in connection with the drug conspiracy, I would
4 rely on the same argument I just made with respect to
5 Count One. The only direct evidence that he was involved in a
6 murder plot at all is through the fatally tainted testimonies
7 of Messrs. Chambers, Bailey and Brown. Also, there was
8 precious little, if any, evidence that Mr. Wallace's murder had
9 anything to do with Mr. Belcher's drug dealings.

10 And finally, with respect to Count Four, Your Honor, I
11 don't have the superseding indictment in front of me, could you
12 tell me the on or about date in Count Four?

13 **THE COURT:** What?

14 **MR. SHEA:** Okay. That's what I thought, that the
15 superseding indictment for Count Four charges that Mr. Belcher
16 intentionally misled a law enforcement --

17 **THE COURT:** Give me the superseding indictment.

18 Didn't I ask you to give me a redacted form?

19 **MR. CRALLE:** Of the indictment? I don't recall the
20 indictment.

21 **THE COURT:** Well, I'm going to -- yes, here it is.
22 No, I'll tell you what I want you to do. It's the superseding
23 indictment that was returned March 7th?

24 **MR. CRALLE:** Yes.

25 **THE COURT:** I am going to read it to the jury at the

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1 beginning.

2 **MR. CRALLE:** Your Honor, I think I actually gave a --

3 **THE COURT:** What?

4 **MR. CRALLE:** I'm sorry, I need to stand up.

5 Your Honor, I believe I submitted at the same time as the
6 revised verdict form a --

7 **THE COURT:** I'm sure you did, but I don't happen to
8 have it in front of me.

9 **MR. CRALLE:** I'm sorry. I will make sure that the
10 Court gets another copy of that today.

11 **THE COURT:** All right, because I took some of the
12 legalese out of it.

13 **MR. CRALLE:** That's correct, you did.

14 **THE COURT:** Okay.

15 **MR. SHEA:** I gave you my argument on Count One. I
16 want to go back to my argument on Count Two, the drug
17 conspiracy. While I believe the Government has elicited enough
18 evidence for a jury to consider whether Mr. Belcher was
19 involved in a drug conspiracy, I don't believe the Government
20 has elicited any evidence or at least not sufficient evidence
21 for a jury to consider that Mr. Watson was part of
22 Mr. Belcher's drug-dealing activities.

23 With respect to Count Three, that's the 924(j) count,
24 murder in the course of a drug conspiracy, I make the same
25 argument that I made with respect to Count One regarding the

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1 quality of the evidence --

2 **THE COURT:** Repeat your argument on Count One.

3 **MR. SHEA:** The only direct evidence that Mr. Belcher
4 was involved in a murder plot was the testimony of Messrs.
5 Brown, Bailey and Chambers.

6 **THE COURT:** Yeah, and if the jury believes them, he's
7 guilty.

8 **MR. SHEA:** It's a motion for judgment of acquittal.
9 I'm suggesting to the Court they are so unreliable that the
10 jury shouldn't even hear it.

11 **THE COURT:** They are unreliable?

12 **MR. SHEA:** Yes.

13 **THE COURT:** You want me to make that finding?

14 **MR. SHEA:** I would love for you to make that finding,
15 Judge.

16 **THE COURT:** Boy, I've got to tell you, if I was as
17 right wing as Clarence Thomas, I wouldn't make that ruling.

18 **MR. SHEA:** I think I know how you are going to rule
19 on Count One, Judge.

20 With respect to Count Three, which is the 924(j) theory of
21 murder that the Government has brought, I would make the same
22 argument as to Count One, but in addition, I would say there's
23 precious little, if any, evidence that Mr. Wallace's death had
24 anything to do with Mr. Belcher's drug activities. And so the
25 924(j) count requires the Government not only to show that

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1 Mr. Belcher somehow was involved in Mr. Wallace's death, but it
2 was connected, it was in relation to or in the course of
3 Mr. Belcher's drug-dealing activities, and I don't believe
4 there has been sufficient evidence of that adduced for a jury
5 to consider it.

6 And then finally, Your Honor, with respect to Count Four,
7 the superseding indictment charges that on or about 9-24-15,
8 September 24th, 2015, Mr. Belcher misled essentially Detectives
9 Mitchell and Lucy of the Detroit Police Department with the
10 intent to hinder information getting to a federal officer. I
11 don't think there's been any evidence whatsoever to suggest
12 that whatever deceptions Mr. Belcher may have put forth in that
13 September 24th, 2015 interview that there was any intent to
14 hinder information going to a federal agent.

15 Thank you, Your Honor.

16 **THE COURT:** Mr. Johnson?

17 **MR. JOHNSON:** Judge, if I may --

18 **THE COURT:** What?

19 **MR. JOHNSON:** If I may, I would like to make mine
20 after I put in my proofs.

21 **THE COURT:** Oh, okay.

22 **MR. JOHNSON:** Thank you.

23 **MR. CRALLE:** Would you like me to respond now or
24 later?

25 **THE COURT:** Yeah, let's go ahead now.

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1 First of all, let me ask you this.

2 **MR. CRALLE:** Yes, sir.

3 **THE COURT:** What evidence is there that Watson was
4 involved in the drugs?

5 **MR. CRALLE:** In the drug portion?

6 **THE COURT:** Yeah.

7 **MR. CRALLE:** Your Honor, there was evidence from a
8 number of witnesses that Mr. Watson worked for Mr. Belcher. In
9 fact, one of the witnesses described him as an enforcer, an
10 enforcer for the work that Mr. Belcher does, which is drug and
11 drug and fraud related. It's very difficult, if not
12 impossible, to distinguish the drug business from the fraud
13 business because they are so interwoven, and the testimony was
14 that Mr. Watson is an enforcer for Mr. Belcher. As this Court
15 is well aware, once a drug conspiracy is established, the
16 connection from one person to the next need only be slight.

17 **THE COURT:** Where did the oxycodone come in?

18 **MR. CRALLE:** The oxycodone? Franklin Aday as well as
19 Latasia Banks as well as the phone showed that Mr. Belcher was
20 distributing pills in addition to cocaine.

21 **THE COURT:** Okay. Let me ask you this. What's the
22 theory of Belcher using a firearm?

23 **MR. CRALLE:** Your Honor, Mr. Belcher did not use a
24 firearm. I would not even attempt to make that argument.
25 However, as Your Honor is aware, in order to be guilty of an

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1 offense you don't have to be the principal. You can also aid
2 and abet or you can also be liable under the Pinkerton theory,
3 and it would be the Government's position that Mr. Belcher is
4 liable for Mr. Watson's use of the gun through both an aiding
5 and abetting theory as well as a Pinkerton theory of liability.
6 That related to, at least in part, his drug business, and by
7 Mr. Watson using that gun, he is liable.

8 **THE COURT:** And with regard to Count Four --

9 **MR. CRALLE:** Yes, Your Honor. Count Four --

10 **THE COURT:** Wait a minute.

11 **MR. CRALLE:** Yes, sir.

12 **THE COURT:** How did he know when he's lying to the
13 Detroit detectives?

14 **MR. CRALLE:** Your Honor, with Count Four Mr. Belcher
15 made a number of misleading statements, and Mr. Belcher also
16 said that the victim was killed because he was snitching to the
17 DEA. Obviously the DEA is a federal law enforcement agency,
18 and in fact there was testimony at trial that because
19 Mr. Belcher told the detectives that on the night of the
20 homicide that the detectives immediately called the DEA because
21 they were concerned and, indeed, the first indictment is
22 evidence that the Government wasted a lot of time trying to run
23 down that Mr. Wallace was killed in relation to his cooperation
24 with the Federal Government. Obviously, by talking to the
25 police in an investigation when they are investigating whether

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1 or not he was murdered as a result of his cooperation with law
2 enforcement, any information given to those detectives, it is a
3 reasonable likelihood it would be passed along to federal
4 agents.

5 **THE COURT:** Well, okay. Go ahead. Anything further?

6 **MR. CRALLE:** No, Your Honor. Certainly, as the Court
7 is well aware, viewed in a light most favorable to the
8 Government, we don't assess the credibility of the witnesses,
9 as counsel would like. That's for the jury to decide. The
10 testimony certainly established all of the elements of the
11 offense, and so the Government has submitted sufficient
12 evidence to proceed to the jury on all counts.

13 **MR. SHEA:** Your Honor, can I respond just briefly
14 with respect to Count Four?

15 **THE COURT:** What?

16 **MR. SHEA:** Can I respond just briefly with respect to
17 Count Four?

18 The superseding indictment charges that on or about
19 September 24, 2015 Mr. Belcher made these misleading
20 statements. I don't believe in the interview, portions of
21 which were played into evidence in this trial, there was any
22 mention of DEA or anything like that. The only statement that
23 I believe attributed the words DEA or the acronym DEA to
24 Mr. Belcher, maybe I'm wrong and maybe Mr. Cralle will correct
25 me, were his statements to Detective -- very brief, the guy was

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1 snitching to the DEA statement to Sergeant Eby on the scene on
2 September the 11th.

3 **MR. CRALLE:** That is correct, and because that had
4 been done on September 11th, all the information under
5 investigation was being coordinated through the DEA to try to
6 determine what was happening and why this murder had occurred.

7 **MR. SHEA:** I just don't see how that gets placed into
8 Mr. Belcher's state of mind and what he intended.

9 **THE COURT:** Okay. The Court will take the motion
10 under advisement.

11 **MR. SHEA:** Thank you, Judge.

12 (End of excerpt.)

13 - - -

14 **C E R T I F I C A T I O N**

15 I certify that the foregoing is a correct transcription of
16 the record of proceedings in the above-entitled matter.

17
18 s/ Sheri K. Ward
19 Sheri K. Ward
Official Court Reporter

5/10/2019
Date

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